

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

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ROBERT R. DI TROIO
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UNITED STATES OF AMERICA,)
vs. Plaintiff,) Cr. No. 04-20265 BP
BRIAN BELL,)
Defendant.)

ORDER DENYING DEFENDANT'S MOTION FOR DISCOVERY

Before the Court is Defendant Brian Bell's Motion for Discovery, filed on May 3, 2005 (dkt #53). The matter was referred to the magistrate judge on May 5, 2005. The government responded on May 31. For the following reasons, the motion is DENIED.

In Count 3 of the indictment, Bell is charged with possession of a firearm, in violation of 18 U.S.C. § 922(g). He now seeks an order requiring the government to disclose the names and addresses of all the prior owners and/or transferors of the firearms listed in the indictment.¹

Under Federal Rule of Criminal Procedure 16(a) (1) (E) (i), the Government must disclose items it possesses that are material to the defense. "In order to convict under 18 U.S.C. § 922(g) (1), the

¹Bell also seeks this information for a revolver that was seized by government agents but is not a part of the indictment.

Government must prove the following three elements: (1) that the defendant had a previous felony conviction, (2) that the defendant possessed a firearm, (3) that the firearm had traveled in or affected interstate commerce." United States v. Walker, 160 F.3d 1078, 1087 (6th Cir. 1998) (citation and quotations omitted); United States v. Moreno, 933 F.2d 362, 372 n. 1 (6th Cir. 1991). The information Bell requests is outside the scope of information that would be relevant to prepare a defense with respect to these elements. Accordingly, the motion for discovery is DENIED.

IT IS SO ORDERED.



TU M. PHAM
United States Magistrate Judge

June 7, 2005

Date



Notice of Distribution

This notice confirms a copy of the document docketed as number 59 in case 2:04-CR-20265 was distributed by fax, mail, or direct printing on June 8, 2005 to the parties listed.

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Honorable J. Breen
US DISTRICT COURT